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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF )  
FINANCE, SECURITIES BUREAU, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
5YearBond, aka www.5YearBond.com, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. 2005-7-32

**ORDER TO CEASE AND DESIST AND  
NOTICE OF THE OPPORTUNITY  
FOR A HEARING**

Gavin M. Gee, Director of the Idaho Department of Finance (Director), being authorized and directed to administer and enforce the Uniform Securities Act (2004), Idaho Code § 30-14-102 *et seq.* (the Act), hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to Idaho Code § 30-14-604(a)(1) requiring 5YearBond, aka www.5YearBond.com (the Respondent), to cease and desist from violating the Act by selling unregistered securities to Idaho residents and engaging in misrepresentations or omissions of material fact, in connection with the offer, sale, or purchase of a security to Idaho residents.

## **RESPONDENT**

1. At all times relevant hereto, the Respondent operated a website accessible to Idaho residents, from which it offered for sale investments in bonds. The Respondent's web domain name of 5YearBond.com is registered to Benjamin Revell at Bahnhofstrasse 51, Zurich, Switzerland, Null 8023. The Respondent's website represents that Benjamin Revell is its C.E.O.

2. The Respondent has never been registered as an issuer of securities or a securities broker/dealer with the State of Idaho, Department of Finance, Securities Bureau (Department) under the Act, nor has it registered or otherwise qualified any security with the Department for offer or sale to Idaho residents.

## **FINDINGS OF FACT**

3. At all times relevant hereto, the Respondent's website has provided that the bonds it offers for sale to the public, including Idaho residents, have a term of five (5) years, and can be purchased in amounts ranging from a minimum of \$500 to a maximum of \$500,000. The Respondent's website also has represented that a bond with a term of one (1) year is also available.

4. The Respondent's website provides that "Your investment in the bond produces a guaranteed minimum *fixed monthly return* ... of **12.5%** for a period of **60 Months (150% per year)** at which time the initial investment will be returned along with the final month interest payment." The website also provides that, alternatively, "[Y]ou can choose to defer the interest payments for a *full 12 months* ... and receive a guaranteed minimum fixed annual return of **200% for a period of 5 Years** ..."

5. The Respondent's website also provides as an "additional incentive to the serious investor" interest ranging from 12.5% to 400%. Additionally, the Respondent's website provides that investors in its bonds can receive a "10% referral payment" for referring other investors who invest in the Respondent's bonds.

6. The Respondent's website fails to disclose information concerning its bond offering, to include the following: (1) the risk associated with an investment in the bonds it offers for sale; (2) how it generates profits that would allow it to pay the interest rates it offers; (3) the use of proceeds received from investors; (4) the Respondent's financial condition and its ability to service its outstanding debt obligations prior to and as a result of the current bond offering; (5) facts concerning the Respondent's company and the industry it competes in; (6) a list of the Respondent's officers, directors or control persons, and biographical information concerning the same; and (7) that the bond investments it offers and its sales agents were not registered with the Department as required under the Act.

7. On or about July 5, 2005, K.T., an Idaho resident, invested in the Respondent's bonds through the Respondent's website. K.T. also referred other Idaho residents to the Respondent for the purpose of investing in the Respondent's bonds. K.T. received compensation from the Respondent for such referrals. At all times pertinent hereto, K.T. was not registered to transact securities business in Idaho under the Act as an agent, nor has he qualified for an exemption from such requirement.

8. On October 27, 2005, the Texas State Securities Board issued an Emergency Cease and Desist Order against the Respondent, ordering the Respondent to cease violating the Texas Securities Act by selling unregistered securities, from acting as securities dealers or agents in Texas while unregistered to do so and from engaging in securities fraud.

9. The Respondent's website fails to disclose the Texas State Securities Board's issuance of the cease and desist order referenced in paragraph 8 above.

### **CONCLUSIONS OF LAW AND VIOLATIONS**

#### **COUNT ONE: OFFER OR SALE OF UNREGISTERED SECURITY** **(Violation of Idaho Code § 30-14-301)**

8. The allegations set forth in paragraphs 1 through 7 above are fully incorporated herein by this reference.

9. Idaho Code § 30-14-102(28) defines "security" to include a "bond." The bond offered for sale by the Respondent on its website and sold to Idaho resident K.T. and others constitutes a security under this definition in the Act.

10. Idaho Code § 30-14-301 provides that it is unlawful for a person to offer or sell a security in Idaho unless: (a) the security is a federal covered security; (b) the security, transaction or offer is exempted from registration under Idaho Code § §§ 30-14-201 through 30-14-203; or, (c) the security is registered under the Act. The Department has made reasonable inquiry and based on that inquiry concludes that the security offered and sold by the Respondent is not a federal covered security and is not exempt from the registration requirement of Idaho Code § 30-14-301.

11. The Respondent's offer or sale of a security to Idaho residents without properly registering such security with the Department constitutes a violation of Idaho Code § 30-14-301.

#### **COUNTS TWO THROUGH FOUR: SECURITIES FRAUD** **(Violation of Idaho Code § 30-14-501)**

12. The allegations set forth in paragraphs 1 through 11 above are fully incorporated herein by this reference.

13. Idaho Code § 30-14-501(2) provides that it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

14. Idaho Code § 30-14-304(b) sets forth the information or records required to be submitted to the Department to register a security by qualification. The information or records referenced in Idaho Code § 30-14-304(b) constitute the types of information that are material to investors or prospective investors in determining whether or not to invest, and may be required by the Department to be included in a prospectus distributed to prospective investors, as part of a proper registration.

15. The Respondent's failure to provide investors or prospective investors with information concerning (1) the risk associated with an investment in the bonds it offers for sale; (2) how it generates profits that would allow the interest rates it offers; (3) the use of proceeds received from investors; (4) the Respondent's financial condition and its ability to service its outstanding debt obligations prior to and as a result of the current bond offering; (5) facts concerning the Respondent's company and the industry it competes in; (6) a list of the Respondent's officers, directors or control persons, and biographical information concerning the same; and (7) that the bond investments it offers and its sales agents were not registered as required under the Act, constitute material omissions in connection with the offer, sale or purchase of a security, in violation of Idaho Code § 30-14-501(2).

16. Idaho Code § 30-14-402(a) provides that it is unlawful for an individual to transact securities business in Idaho as an agent unless such individual is registered under the Act as an agent or is exempt from such registration as an agent.

17. The Respondent's failure to provide investors or prospective investors with the information that its agent, K.T., was not registered to transact securities business in Idaho as an agent and had not qualified for an exemption from such registration requirement, constitutes a material omission in connection with the offer, sale or purchase of a security, in violation of Idaho Code § 30-14-501(2).

18. The Respondent's failure to disclose to investors or prospective investors the Texas State Securities Board's issuance of an Emergency Cease and Desist Order on October 27, 2005, as referenced in paragraphs 8 and 9 above, constitutes a material omission in connection with the offer, sale or purchase of a security, in violation of Idaho Code § 30-14-501(2).

#### **REQUESTED RELIEF**

18. Idaho Code § 30-14-604(a)(1) provides that if the Director determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act, the Director may issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with the Act.

19. Idaho Code § 30-14-604(d) provides that the Director may impose a civil penalty not to exceed five thousand dollars (\$5,000) for each violation in a final order issued under Idaho Code § 30-14-604(c).

20. Idaho Code § 30-14-604(e) provides that the Director may impose a the actual cost of investigation for a violation of the Act in a final order issued under Idaho Code § 30-14-604(c).

### **ORDER**

The Director, having reviewed the foregoing, and good cause being shown therefor,

THE DIRECTOR HEREBY FINDS that the Respondent has violated the Uniform Securities Act (2004), Idaho Code § 30-14-101 *et seq.*, as alleged in paragraphs 1 through 20 above.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

The Respondent shall CEASE AND DESIST from violations of the Uniform Securities Act (2004) and rules promulgated thereunder, to include offering or selling unregistered securities to Idaho residents, and engaging in securities fraud, by failing to disclose material facts in connection with the offer, sale or purchase of a security to Idaho residents.

The Director intends to seek a civil penalty of \$5,000 for each violation, pursuant to Idaho Code § 30-14-604(d), and costs of investigation in this matter, pursuant to Idaho Code § 30-14-604(e) at a hearing in this matter, or in a final order, should no hearing be requested. Pursuant to Idaho Code § 30-14-604(b), this Order is effective on the date of issuance.

### **NOTICE OF THE OPPORTUNITY FOR A HEARING**

The Respondent shall take notice that if the Respondent wishes to contest the foregoing ORDER TO CEASE AND DESIST, the Respondent shall file a request for hearing pursuant to Idaho Code § 30-14-604(b) within thirty (30) days after the service of this ORDER TO CEASE AND DESIST. If the Respondent does not timely request a hearing and none is ordered by the Director within that time period, the ORDER TO CEASE AND DESIST, which may include a civil penalty or costs of the investigation, becomes final as to the Respondent by operation of

law. If a hearing is timely requested or ordered, the Director, after notice of and opportunity for a hearing, may modify or vacate the ORDER or extend it until final determination.

A request for a hearing must be requested in writing addressed to:

Marilyn T. Chastain  
Securities Bureau Chief  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

A copy of such request must also be served on the Department's counsel, A. Rene' Martin, Deputy Attorney General, at the same address.

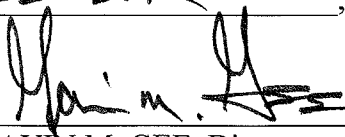
If a hearing is timely requested or ordered pursuant to Idaho Code § 30-14-604(b), a hearing will be set by the Director within fifteen (15) days after receipt of a timely written request, and such hearing will be conducted pursuant to Chapter 52, Title 67, Idaho Code. A final order may not be issued unless the Director makes findings of fact and conclusions of law in a record pursuant to Chapter 52, Title 67, Idaho Code. The final order may make final, vacate, or modify the ORDER.

If the Respondent requires any assistance of the kind the Department provides under the Americans with Disabilities Act (*e.g.* sign language interpreters, Braille copies of documents) in order to participate in or understand these proceedings, the Department will supply such reasonable assistance upon an advance request.

This ORDER TO CEASE AND DESIST is effective upon its issuance.

**IT IS SO ORDERED.**

DATED this 13<sup>TH</sup> day of DECEMBER, 2005.

  
GAVIN M. GEE, Director  
Idaho Department of Finance





**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_,  
2005, I served a true and correct copy of the foregoing ORDER TO CEASE AND DESIST AND  
NOTICE OF OPPORTUNITY FOR A HEARING upon the following by the designated means:

5YearBond, aka 5YearBond.com  
Bahnhofstrasse 51  
Zurich Switzerland

☐ U.S. Mail, postage prepaid  
☐ Certified Mail  
☐ E-mail: 5yearbond@safe-mail.net

Benjamin Revell, C.E.O.  
Bahnhofstrasse 51  
Zurich, Switzerland  
Null 8023

☐ U.S. Mail, postage prepaid  
☐ Certified mail  
☐ E-mail: 5yearbond@safe-mail.net

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